

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE  
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON  
U.S. MAGISTRATE JUDGE

DATE: 10/22/09  
TIME: 10:30 AM

*Stephens v. 1199 SEIU, AFL-CIO, et al.*, CV 07-596 (JFB) (AKT)

TYPE OF CONFERENCE: **STATUS CONFERENCE BY TELEPHONE**

APPEARANCES: Plaintiff Daniel F. DeVita  
  
Defendants: Robert Straub  
William M. Groh

**THE FOLLOWING RULINGS WERE MADE:**

Today's conference was scheduled to discuss the status of Plaintiff who was deported to Jamaica earlier this year. Plaintiff's counsel states that his client wishes to continue with this litigation to vindicate her rights. Plaintiff's counsel further provided an historical accounting of what transpired which eventually led to the deportation. It appears that Plaintiff's testimony is the one remaining element of discovery to be completed in this case. Plaintiff's counsel has spoken recently with his client and discussed her deposition being completed telephonically from Jamaica, noting that both the Federal Rules and the Local Rules of this District permit telephonic depositions. Defendants object to a telephonic deposition because they wish to have an opportunity to view the witness' demeanor, to visually see the documents she has before her as well as any materials she may bring to the deposition, etc. Defendants are not opposed to a videotaped deposition and raised the question whether Plaintiff intended the taking of testimony in this instance to also be a trial-preservation deposition. If so, Defendants insist that a videotaped deposition is the appropriate option and that Plaintiff should be required to pay the costs of such a deposition because the circumstances were not brought about by Defendants.

Counsel for the parties indicated that they have case law to support their various positions which they would be happy to provide to the Court. I have told counsel that I welcome their submissions. They should provide this information to the Court by November 13, 2009. Once I have reviewed the materials and the relevant case law, I will issue an Order to resolve this matter.

SO ORDERED

/s/ A. Kathleen Tomlinson  
A. KATHLEEN TOMLINSON  
U.S. Magistrate Judge